HC-KAR

NC: 2026:KHC:63002
WP No. 21019 of 2023

CNR: KAHC010486872023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

WRIT PETITION NO.21019 OF 2023 (GM-RES)

BETWEEN:

BHARATH KUMAR M
S/O MUNEGOWDA S
AGED ABOUT 29 YEARS,
RESIDING AT NO.83, BETTANAHALLI VILLAGE,
HEGGANAHALLI POST, KUNDANA HOBLI,
DEVANAHALLI TALUK,
BENGALURU RURAL DISTRICT-562 110.

...PETITIONER

(BY SRI. SACHIN C, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY JEEVAN BHEEMANAGAR PS,
HALASUR SUB-DIVISION,
BENGALURU
REPRESENTED BY ITS
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
DR BR AMBEKAR VEEDHI,
BENGALURU-560 001

2. KUM CHAITRA GO,
D/O LATE OMKAR MURTHY,
AGED ABOUT 26 YEARS,
RESIDING AT NO.223
6TH CROSS, ADARSHNAGAR,

Digitally signed by R MANJUNATHA
Location: HIGH COURT OF KARNATAKA

HASSAN-573 101
KARNATAKA.

…RESPONDENTS

(BY SMT.WAHEEDA.M.M, HIGH COURT GOVERNMENT PLEADER FOR R1;
SRI BHARATHRAJ J, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA R/W SECTION 482 CODE OF CRIMINAL PROCEDURE PRAYING TO QUASH THE ORDER DATED 05.08.2023 PASSED BY THE LEARNED X ACMM, MAYOHALL, BENGALURU IN C.C.NO.56789/2023 TAKING COGNIZANCE FOR THE OFFENCES UNDER SECTION 417, 420, 376(2)(n) AND 506 INDIAN PENAL CODE (PRODUCED VIDE ANNEXURE-A) AND ETC.,

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri Sachin C., learned counsel for the petitioner, Smt. Waheeda M.M., learned High Court Government Pleader for respondent No.1 and Sri Bharathraj J., learned counsel for respondent No.2.

2. Petition under Article 226 of Constitution of India read with Section 482 of Code of Criminal Procedure with the following prayer:

> *"WHEREFORE, it is humbly prayed that this Hon'ble Court may kindly be pleased to*
>
> *(1) Call for relevant records;*
>
> *(ii) Quash the order-dated 05.08.2023 passed by the learned X ACMM, Mayohall, Bengaluru in CC No. 56789/2023 taking cognizance for the offences under Sec.417, 420, 376(2) (n) & 506 IPC (produced vide Annexure 'A');*
>
> *(iii) Quash the charge sheet filed by the 1st respondent/Jeevan Bheemanagar PS, Halasuru Sub-division, Bengaluru in Crime No. 21/2022 alleging commission of offences under Sec.376(2)(n), 506, 420 & 417 of IPC in C.C.No.56789/2023 as against the petitioner/Accused No.1 (produced vide Annexure 'B'); and*

(iv) pass such other order as deemed fit in the circumstances of the case, in the interest of justice."

3. Brief facts which are utmost necessary for disposal of the present petition are as under:

3.1. Second respondent lodged the complaint with Jeevan Bheemanagar Police Station alleging the commission of the offence punishable under Section 376 of Indian Penal Code ('IPC' for short) apart from 506, 420 and 417 of IPC.

3.2. Gist of the complaint averments would reveal that petitioner in the guise of marrying respondent No.1 had the physical relationship with her, but later on, on account of the non-approval of the relationship on behalf of the petitioner's family, marriage proposal failed and there was a breach of promise to marry the second respondent.

4. Police after thorough investigation filed the charge sheet for the offence under Section 376(2)(n), 506, 420 and 417 of IPC.

5. Learned counsel for the petitioner reiterating the grounds urged in the petition would contend that it is settled

principles of law that mere breach of promise to marry would not *ipso facto* result in the alleged offences and thus sought for allowing the petition.

6. Per contra, Smt.Waheeda M.M., learned High Court Government Pleader and counsel for second respondent Sri. Bharathraj, in unison would contend that petitioner has actually deceived the second respondent and in the guise of marriage, he had physical relationship with the second respondent and later on breached the said promise resulting in cheating as well as commission of the offence under Section 376(2)(n) of the Indian Penal Code and thus sought for dismissal of the petition.

7. Whenever there was a breach of promise to marry whether any offence as aforesaid would occur or not was subject matter of the decision of the Hon'ble Apex Court in the case of ***Pramod Suryabhan Pawar vs. State of Maharashtra***, reported in **AIR 2019 SC 4010**.

8. In the said Judgment in paragraphs 16, 18, 19 and 20, the Hon'ble Apex Court while dealing with the almost

similar situation, has held that in such cases, offence under Section 376, 417, 504 and 506 would not get attracted.

9. Likewise in the case of ***Raju Krishna Shadbalkar vs. State of Karnataka***, reported in (**2024) 14 SCC 791,** marriage proposal having failed on account of the non-approval by either of the families would not *ipso facto* result in an offence under Section 406, 420 and 417 r/w Section 34 of IPC.

10. Further, again in the recent judgment of the Hon'ble Apex Court, in the case of ***Kunal Rameshbhai Kalyani vs State of Gujarat and another,*** reported in **2026 SCC Online SC 1818,** it has been held that promise to marry and breach thereof would not attract the offence under Section 375 of IPC which is akin to Section 69 of the Bharatiya Nyaya Sanhita (‘BNS’ for short).

11. Therefore, in the case on hand, the physical relationship between the petitioner and second respondent cannot be termed as rape nor ingredients of the offence under Section 417 and other offences would not get attracted and therefore a case is made out to quash the pending proceedings

as it amounts and as continuation thereof amounts to abuse of process of law.

12. Accordingly, following:

ORDER

(i) Petition is ***allowed*.**

(ii) Consequently, the order-dated 05.08.2023 passed by the learned X ACMM, Mayohall, Bengaluru in CC No.56789/2023 taking cognizance for the offences under Sec.417, 420, 376(2) (n) & 506 IPC vide Annexure-A and the charge sheet filed by the first respondent/Jeevan Bheemanagar Police, Halasuru Sub-Division, Bengaluru in Crime No.21/2022 qua the petitioner/accused No.1 vide Annexure-B are hereby quashed.

Sd/-
(V SRISHANANDA)
JUDGE

MR
List No.: 1 Sl No.: 14
CT:VRR